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GAMBLING COMMISSION  
COMM & LEGAL DIVISION

In the Matter of the Revocation of the license to  
Conduct Gambling Activities of: )

NO. CR 2010-00375

Daniel Nakata  
Everett, Washington, )  
Licensee. )

SETTLEMENT ORDER

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HEADQUARTERS OFFICE OF  
ADMINISTRATIVE HEARINGS

The Washington State Gambling Commission and the licensee, Daniel Nakata, agree to this Settlement Order to resolve the administrative charges pending against the licensee. H. Bruce Marvin, Assistant Attorney General, and Melinda Froud, Staff Attorney, represent the Gambling Commission. Daniel Nakata is represented by Joseph A. Grube, Attorney.

I.

The Washington State Gambling Commission issued Daniel Nakata license number 68-09802 authorizing Card Room Employee activity, formerly with The Hideaway in Everett.

The license expired August 4, 2010, and was issued subject to the licensee's compliance with state gambling laws and Commission rules.

II.

The Director issued a Notice of Administrative Charges and Opportunity for an Adjudicative Proceeding to Mr. Nakata, on May 6, 2010. Mr. Nakata received the Notice, and on May 20, 2010, Commission staff received Mr. Nakata's request for a hearing and Notice of Appearance from his attorney.

III.

The following summary of facts and violations were alleged in the Notice of Administrative Charges:

**SUMMARY:**

1) A Commission Special Agent (agent), in an undercover capacity, observed the licensee's activities at The Club in Everett from November 2009 through January 2010. On multiple days, the agent saw the following:

- The licensee would leave his apartment with a pink/purple book (book) and put the book into his car and drive to The Club.
- Once at The Club, the licensee would remove the book from his car and take it into The Club.
- While he played poker at The Club, the licensee would have the book next to him and

discuss with employees and patrons in The Club about placing bets on sporting activity, as well as the sports betting information recorded in the book.

- 2) Additionally, the agent, along with other Commission Special Agents, observed the licensee meet people at the trunk of his car, which was parked in The Club's parking lot. An undercover agent overheard the licensee discuss sports, placing bets, and winning and losing money on his cell phone and with the people he met in the parking lot.
- 3) On January 21, 2010, the agent, along with other Commission Special Agents, served a search warrant on the licensee's car and apartment. The agent reviewed the pink/purple book found in the licensee's car and observed that the entries made in the book were consistent with sports betting for 2009 through 2010. The book contained football game lines,<sup>1</sup> game results, wagers made, and amount of money won and lost, all of which are consistent with gambling records under RCW 9.46.0253 and professional gambling under RCW 9.46.0269.
- 4) Based on the licensee's actions at The Club and his possession of gambling records while working at The Club and in his car, the licensee knowingly made, possessed, stored, and transported gambling records to aid in an unauthorized gambling activity in violation of RCW 9.46.217 and RCW 9.46.221.
- 5) The licensee's activities demonstrate that he is a threat to the effective regulation of gambling, or creates or increases the likelihood of unfair or illegal practices, methods, and activities in the conduct of gambling activities. Therefore, the licensee has failed to establish by clear and convincing evidence the necessary qualifications for licensure, in violation of RCW 9.46.153.
- 6) Grounds, therefore, exist to revoke Daniel Nakata's license under RCW 9.46.075(1) and (8), and WAC 230-03-085(1) and (8).

#### **VIOLATIONS:**

##### **RCW 9.46.075 Denial, suspension, or revocation of license, application, or permit**

The Commission may deny an application, or suspend or revoke any license or permit issued by it, for any reason or reasons, it deems to be in the public interest. These reasons shall include, but not be limited to, cases wherein the applicant or licensee, or any person with any interest therein.

(The following subsections apply.)

- (1) Has violated, failed or refused to comply with the provisions, requirements, conditions, limitations or duties imposed by chapter 9.46 RCW and any amendments thereto, or any rules adopted by the Commission pursuant thereto, or when a violation of any provision of chapter 9.46 RCW, or any Commission rule, has occurred upon any premises occupied or operated by any such person or over which he or she has substantial control.
- (8) Fails to prove, by clear and convincing evidence, that he, she or it is qualified in accordance with the provisions of this chapter.

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<sup>1</sup> A line is a system of points used for betting on sports teams and is based on the sports team's performance and ability to win a particular game.

**WAC 230-03-085 Denying, suspending, or revoking an application, license or permit**

(The following subsections apply.)

We may deny, suspend, or revoke any application, license or permit, when the applicant, licensee, or anyone holding a substantial interest in the applicant's or licensee's business or organization:

(1) Commits any act that constitutes grounds for denying, suspending, or revoking licenses or permits under RCW 9.46.075.

(8) Poses a threat to the effective regulation of gambling, or creates or increases the likelihood of unfair or illegal practices, methods, and activities in the conduct of gambling activities, as demonstrated by: (a) Prior activities; or (b) Criminal record; or (c) Reputation; or (d) Habits; or (e) Associations.

**RCW 9.46.153(1) Applicants and licensees-Responsibilities and duties**

It shall be the affirmative responsibility of each applicant and licensee to establish by clear and convincing evidence the necessary qualifications for licensure of each person required to be qualified under this chapter, as well as the qualifications of the facility in which the licensed activity will be conducted.

**RCW 9.46.217 Gambling records — Penalty — Exceptions.**

Whoever knowingly prints, makes, possesses, stores, or transports any gambling record, or buys, sells, offers, or solicits any interest therein, whether through an agent or employee or otherwise, is guilty of a gross misdemeanor. However, this section does not apply to records relating to and kept for activities authorized by this chapter when the records are of the type and kind traditionally and usually employed in connection with the particular activity. This section also does not apply to any act or acts in furtherance of the activities when conducted in compliance with this chapter and in accordance with the rules adopted under this chapter. In the enforcement of this section direct possession of any such a gambling record is presumed to be knowing possession thereof.

**RCW 9.46.0253 "Gambling record."**

"Gambling record," as used in this chapter, means any record, receipt, ticket, certificate, token, slip or notation given, made, used or intended to be used in connection with professional gambling.

**RCW 9.46.0269 "Professional gambling."**

(1) A person is engaged in "professional gambling" for the purposes of this chapter when:

(a) Acting other than as a player or in the manner authorized by this chapter, the person knowingly engages in conduct which materially aids any form of gambling activity.

**RCW 9.46.221 Professional gambling in the second degree.**

(1) A person is guilty of professional gambling in the second degree if he or she engages in or knowingly causes, aids, abets, or conspires with another to engage in professional gambling as defined in this chapter, and:

(a) Acts in concert with or conspires with less than five people; or

(b) Accepts wagers exceeding two thousand dollars during any thirty-day period on future contingent events; or

- (c) The operation for whom the person works, or with which the person is involved, accepts wagers exceeding two thousand dollars during any thirty-day period on future contingent events; or
  - (d) Maintains a "gambling premises" as defined in this chapter; or
  - (e) Maintains gambling records as defined in RCW 9.46.0253.
- (2) However, this section shall not apply to those activities enumerated in RCW 9.46.0305 through RCW 9.46.0361 or to any act or acts in furtherance of such activities when conducted in compliance with the provisions of this chapter and in accordance with the rules adopted pursuant to this chapter.
- (3) Professional gambling in the second degree is a class C felony subject to the penalty set forth in RCW 9A.20.021.

#### IV.

Mr. Nakata's license expired on August 4, 2010, and he has not worked as a Card Room Employee since then.

Mr. Nakata has an administrative hearing scheduled for October 20, 2010. However, he has waived his right to a hearing based on the terms and conditions of this Settlement Order.

Mr. Nakata further agrees to the following:

- 1) Mr. Nakata will immediately withdraw his pending Card Room Employee application to work for The Hideaway in Shoreline received by Commission staff on August 13, 2010.
- 2) Daniel Nakata shall not hold or re-apply for a gambling license or certification until February 4, 2011. This is six (6) months after his gambling license expired on August 4, 2010. In the event that Mr. Nakata does reapply on or after February 4, 2011, he will be required to establish, by clear and convincing evidence, that he is qualified to hold a gambling license or certification.
- 3) Mr. Nakata will be subject to all the Commission's investigative procedures for processing an application for a gambling license. Nothing herein shall prevent the Commission from denying Mr. Nakata's application for a license or certification at that time based on facts that may not be currently known by Commission legal staff. Furthermore, no promises or assurances have been made to Mr. Nakata that he will receive a license or certification from the Commission should he apply.
- 4) Mr. Nakata shall have no involvement directly or indirectly, whether paid or unpaid, in the operation, ownership, or financing of any business in Washington State which is applying for, or holds, a gambling license or permit or is involved with any gambling activity, including punchboard/pull-tab activity.
- 5) However, this does not prevent Mr. Nakata from working in any non-gambling activity, such as employment in restaurants located in establishments engaged in authorized gambling activity.

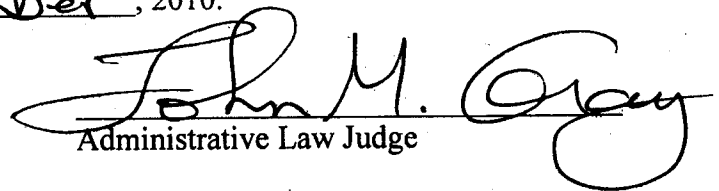
6) The signed Settlement Order must be received by Commission staff on or before September 10, 2010. It may be mailed to Commission Headquarters at the following address:

Washington State Gambling Commission  
Attention: Communications and Legal Division  
P.O. Box 42400  
Olympia, WA 98504-2400

Or delivered (in person or via private courier) to the following address:

Washington State Gambling Commission  
4565 7<sup>th</sup> Avenue SE; Fourth Floor  
Attention: Communications and Legal Division Lacey, WA 98503

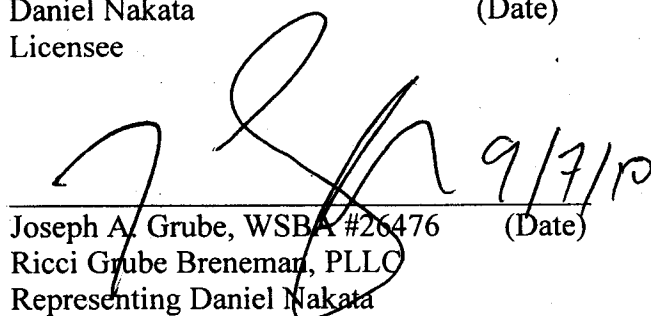
DATED this 22<sup>nd</sup> day of September, 2010.

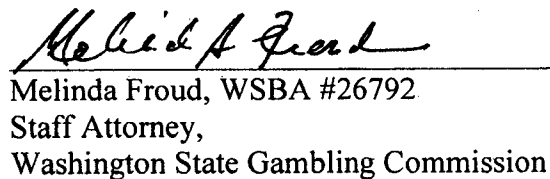
  
Administrative Law Judge

By his signature, the licensee  
understands and accepts the terms  
and conditions of this Order

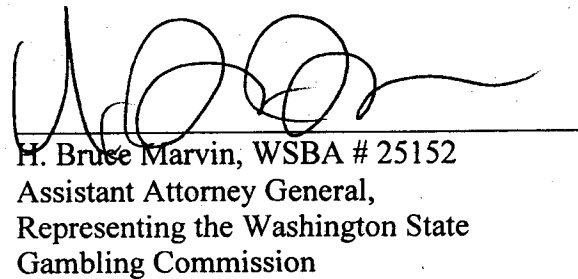
APPROVED FOR ENTRY:

Daniel Nakata 9/3/10  
Daniel Nakata (Date)  
Licensee

  
Joseph A. Grube, WSBA #26476 (Date)  
Ricci Grube Breneman, PLLC  
Representing Daniel Nakata

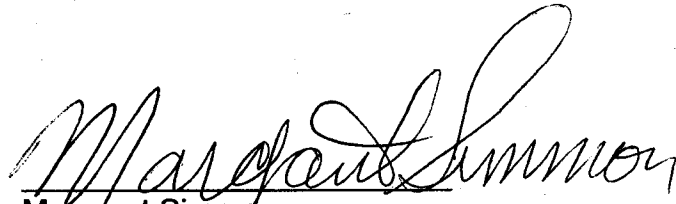
  
Melinda Froud, WSBA #26792  
Staff Attorney,  
Washington State Gambling Commission

APPROVED AS TO FORM:

  
H. Bruce Marvin, WSBA # 25152  
Assistant Attorney General,  
Representing the Washington State  
Gambling Commission

### Certification of Mailing

I certify that I mailed true and exact copies of the Settlement Order for docket 2010-GMB-0030, Daniel Nakata to the following parties, postage prepaid this 22<sup>nd</sup> day of September 2010 at Olympia, Washington.



Margaret Simmons  
Legal Secretary

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